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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
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12 MARGARITA GAETA, et al.,  
13 Plaintiffs,

14 v.

15 PERRIGO PHARMACEUTICALS  
16 COMPANY, et al.,  
17 Defendants.

Case No.: C 05-4115 JW (PVT)

**ORDER RE MID-DEPOSITION  
DISPUTE**

18 On February 12, 2008, Plaintiff and Defendant Perrigo Pharmaceuticals Company appeared  
19 by telephone before Magistrate Judge Patricia V. Trumbull for hearing regarding a dispute which  
20 arose during the deposition of Dr. Zeller.<sup>1</sup> The dispute involved Defense counsel's instruction to  
21 Dr. Zeller not to answer questions about Plaintiffs' experts' reports. Based on the arguments  
22 presented,

23 IT IS HEREBY ORDERED that Defendant Perrigo Pharmaceuticals Company's motion to  
24 limit the deposition pursuant to Rule 30(d)(3) of the Federal Rules of Civil Procedure<sup>2</sup> is DENIED.

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26 <sup>1</sup> The holding of this court is limited to the facts and the particular circumstances  
underlying the present motion.

27 <sup>2</sup> Although defense counsel did not expressly state he was moving for a motion to limit the  
28 deposition, the court assumes that was the purpose of the telephone hearing given the context of the  
dispute. See FED.R.CIV.PRO. 30(c)(2) ("A person may instruct a deponent not to answer only when  
necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion

1 Dr. Zeller shall answer the questions regarding Plaintiff's experts' reports.

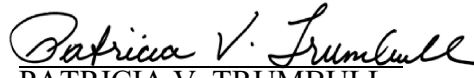
2 Rule 30(d)(3) provides, in relevant part:

3 "At any time during a deposition, the deponent or a party may move to terminate or  
4 limit it on the ground that it is being conducted in bad faith or in a manner that  
unreasonably annoys, embarrasses, or oppresses the deponent or party."

5 Defendant has not shown that the questions about Plaintiffs' experts' reports were either  
6 asked in bad faith, or that they unreasonably annoy, embarrass, or oppress Dr. Zeller or Defendant.

7 Defendant's arguments regarding the propriety of asking these questions of Dr. Zeller goes to  
8 whether his responses would be *admissible*, not whether they are discoverable. *See, e.g., Boyd v.*  
9 *University of Maryland Med. Sys.*, 173 F.R.D. 143, 148 (D.Md. 1997).

10 Dated: 2/12/08

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12 PATRICIA V. TRUMBULL  
United States Magistrate Judge

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